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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES  
(Docket No. 404980)

the Application of:	)	<b>Customer No. 27717</b>
	)	
Chauncy W. Griswold	)	
	)	<b>Art Unit: 3714</b>
Serial No.: 10/084,820	)	
	)	
Filed: February 27, 2002	)	<b>Examiner: Boris Savic</b>
	)	
For: CONTACTLESS CARD READER IN	)	
A GAMING MACHINE	)	

TO: MAIL STOP: Appeal Brief-Patent  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

**APPEAL BRIEF**

Dear Sir:

This is the Appeal Brief for the appeal filed on May 16, 2007. Please charge Deposit Account No. 19-1351 of Seyfarth Shaw LLC for the appeal brief fee and any added fees that may be required.

**I. REAL PARTY IN INTEREST**

The real party in interest is IGT, the assignee of this application.

**II. RELATED APPEALS AND INTERFERENCES**

There are no prior or pending appeals, interferences, or judicial proceedings known to Appellant, the Appellant's legal representative, or the assignee, which may be

related to, directly affecting, or be directly affected by or having a bearing on the Board's decision in this appeal.

### **III. STATUS OF CLAIMS**

Claims 1-2 are canceled.

Claims 3-4 are rejected, and comprise claims on appeal.

Claim 5 is canceled.

Claims 6-8 are rejected, and comprise claims on appeal.

Claims 9-18 are canceled.

Claims 19-22 are rejected, and comprise claims on appeal.

Claims 23-25 are canceled.

Claim 26 is rejected, and comprises a claim on appeal.

Claims 27-30 are canceled.

Claims 31-42 are rejected, and comprise claims on appeal.

### **IV. STATUS OF AMENDMENTS**

The amendments are as they stand in the Response to Office Action and Amendment of June 6, 2005.

### **V. SUMMARY OF CLAIMED SUBJECT MATTER**

Independent claim 31 calls for a method of activating a gaming machine 10 (Fig. 1) by an individual player for subsequent play. The method comprises displaying to the gaming machine 10, without physical contact with the gaming machine, a card 16 which is carried by the player (p. 2 lines 1-2; p. 7 lines 1-5). The card 16 may comprise an

article of personal adornment such as a wristwatch or article of jewelry, thus serving a double function, since it is intended to never leave the player (p. 7 lines 9-10). The card 16 carries suitable electronics for data transmission, in the manner of a known "smart card" (p. 7 lines 18-20).

The method of claim 31 further has the step of causing wireless transfer of first individualized data concerning the player from the card 16 to the gaming machine 10 or to a computer network associated with the gaming machine. This individualized data includes biometric data of the player (p. 8 lines 1-7).

The data is evaluated against a stored database, and, upon favorable evaluation of the data, the gaming machine provides a personalized greeting to the players (p. 2 line 16 - p. 3 line 2);

Biometric sensing of the player as separate, personal identification is provided to the gaming machine as well. For example, a facial scan may be used as called for in the third paragraph of specification page 7. See also specification page 9, lines 6 and 7.

Upon favorable evaluation of the data and the biometric sensing, the gaming machine is activated for subsequent play (p. 3 lines 1-2).

Furthermore, during or after the subsequent play, wireless transfer of second, individualized data is transmitted back to the card to be stored, typically in a non-contact manner. Such data can include a new cash balance on the card, after cash for playing is deducted or a winning is added (p. 8, second paragraph).

Thus, the card that carries the important data about the player never leaves his possession, thus reducing or avoiding the problems of lost cards, or cards that are “eaten” by a defective gaming machine.

Independent claim 32 adds to the above the step of “manually actuating said gaming machine to accept non-contact electronic data transmission from a card 16 carried by the player...” (p. 7, first paragraph). Thus, as an added step, the player presses a button 18 or the like on a particular machine that he or she desires to play, to actuate it to read the carried card 16 in non-contact manner. By this, problems of machines being inadvertently activated if the player steps too closely to them, or otherwise examines them, can be avoided. The machine 10 is thus only activated with a manual activation step such as pressing a button 18, in addition to communication with the non-contact card 16 to finish the activation (p. 7 lines 5-8).

Claims 6 and 33 are respectively dependent upon claims 31 and 32, and require that, after evaluation of the data, the gaming machine is activated in the specific mode selected from a plurality of possible modes of activation. The specific mode selected is a function of the individualized data. In other words, the system may go to a favorite, particular game of the player or the like (p. 10 lines 2-9).

## **VI. GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL**

1. Whether claims 3-4, 6-8, 19-20, 26, 31, 32-37, and 40-42 are properly rejected under 35 U.S.C. 103(a) as unpatentable over Walker et al. U.S. Patent 6,110,041, in view of Raven et al. U.S. Patent No. 5,429,361, further in view of Orus et al. U.S. Patent Application Publication 2002/0047044 A1.

2. Whether claims 21-22 and 38-39 are properly rejected under 35 U.S.C. 103(a) as being unpatentable over Walker et al. in view of Raven et al. and Orus et al.,

further in view of *Phillips Semi-Conductors Leading Edge Smart Card Technology Meets Smartest Watch Technology*-Press Release (Phillips Semi-Conductors).

## **VII. ARGUMENT**

### **A. The Rejection Of Claims 4, 6-8, 19-20, 26, And 31 As Obvious Over Walker et al. In View Of Raven et al. In View Of Orus et al. Should Be Reversed.**

Turning first to claim 31 and its dependent claims, the Board is urged to note in claim 31 the claim elements (among others) as follows: "...displaying to said gaming machine, without physical contact with said gaming machine, a card carried by the player;...causing wireless transfer of first individualized data concerning the player from the card to the gaming machine or to a computer network that is associated with said gaming machine;...providing biometric sensing as separate, personal identification to the gaming machine; evaluating said biometric sensing; activating said gaming machine for said subsequent play upon favorable evaluation of said data and said sensing; during or after said subsequent play, causing wireless transfer of second, individualized data back to the card to be stored."

Among the three cited references, only Orus et al. discloses the use of a non-contact card for wireless transfer, and only Walker et al. discloses the use of separate biometric data for identification of a player.

In view of this, those skilled in the art, having the references before them, would conclude that one would use either a non-contact card, or biometric data as an identification means of a gamer. There is no teaching in the references of the use of both a non-contact card and biometric data for identification of the gamer. In support of

this, the Board is requested to consider the teaching at column 6 of Walker et al. lines 47-61 (with portions deleted):

“Alternatively, machine 120 or device 360 may include one or more separate input buttons (not shown) for the players to select the options and provide other input such as a PIN... In other embodiments, slot machine 120 recognizes the identity of players through player identification devices other than player card tracking device 360, thereby eliminating the need for players to carry player identification cards. For example, slot machine 120 could include a keypad, in which players enter either their player identification numbers or their names along with a secured password. Slot machine 120 could also include a device for measuring player biometrics, (i.e., fingerprint, voice, or retinal detection) to identify players.” (emphasis added)

This disclosure in Walker et al. is clearly a teaching of alternate techniques for player identification. They may be (1) input buttons to manually put in a PIN, (2) a key pad, or (3) a biometric system. This is a teaching away from the use of the contactless card in one step of the method and also a biometric scan and evaluation taken on the spot of the player, as called for in Appellant’s claims.

As described in the specification, great convenience is provided by this method. The required data for play is provided in the non-contact card, the non-contact advantage being particularly desirable in that, as described on page 1 of the specification, the card never leaves the possession of the user, and does not get accidentally left in the reading slot, nor does it ever get “eaten” in the slot.

At the same time, since cards can be stolen, the biometric scan may be easily and automatically taken at the machine without inconvenience, or even awareness by the player, particularly if a face scan is used. Turning to Walker et al., Orus et al., and Raven et al., there is no teaching of this double collection of data to provide both convenience and security to the player and to the casino. Indeed, Walker teaches away

from this concept by indicating in the text quoted above that the device for measuring player biometrics is a substitute for a player identification card.

Raven et al. also fails to teach a gaming system that uses a contactless card, or a gaming system that utilizes biometric identification. Raven et al.'s card must be inserted and there is no disclosure of using biometric data.

In addition to the foregoing, claim 31 requires the method step of: "upon favorable evaluation of said data, said gaming machine provides a personalized greeting to the player." This greeting utilizes data received from the wireless card and this claim element is not disclosed or taught by the prior art, in combination with the other claim limitations.

**B. The Rejection Of Claims 3, 32-37 And 40-42 As Obvious Over Walker et al. In View Of Raven et al. In View Of Orus et al. Should Be Reversed.**

Claim 3 and independent claim 32 each add a claim limitation which calls for an added step: the physical actuation (in claim 3) or the manual actuation (in claim 32) of the gaming machine as a separate step to activate the machine, in combination with the other claim limitations. As stated in claim 32, the machine is thus actuated "... to accept non-contact electronic data transmission . . .", which becomes a second actuation step. As previously stated, and as described in the specification, this separate actuation in the claimed method eliminates the accidental actuation of the machine when a player with a non-contact card is walking by the machine or inspecting it, without intending to play. Thus, by this invention, a simple, deliberate actuation step on the part of the player is required in order to put the machine in a condition to accept the data from the non-contact card and otherwise to initiate the gaming process. Claims 3 and 32 are calling

for a double actuation, one being a manual actuation by the player and one being a non-contact actuation.

None of the references cited by the examiner, or any combination thereof, suggest such a deliberate, physical or manual actuation step, in addition to use of a non-contact gaming card with a gaming machine by a player, and also requiring a biometric scan, for machine actuation.

Furthermore, claim 32 requires the method step of: “upon favorable evaluation of said data, said gaming machine providing a personalized greeting to the player.” This greeting utilizes data received from the wireless card. This claim element is not suggested in the cited prior art, in combination with the other claim limitations.

Thus, in summary, claims 3, 32-37 and 40-42 relate to a method with a contactless smart card where the player data transferred in a wireless manner is evaluated against the database of biometric information which has been simultaneously obtained. If there is a match, the personal greeting is provided, and the machine is activated. Subsequently, individualized data, such as a revised cash balance, is transferred back to the card. In addition, manual actuation is required, to avoid accidental activation.

To the contrary, Orus teaches a non-contact card for identification, but without a separate identification technique that utilizes biomedical scanning. No greeting is provided, and no separate, manual actuation is used.

Walker et al. teaches the use of a card, or, alternatively, the use of another technique such as a biometric technique as an alternative to use of the card.



Furthermore, there is no added step of manual actuation along with a contactless card actuation taught in Walker et al. either.

Raven et al. shows a system that fails to teach a contactless card, and it fails to teach the use of biometric identification. Additionally, there is no added step of manual actuation taught, in combination with a contactless card actuation.

As such, it is submitted that claims 3, 32 and their dependent claims, are patentable.

**C. Claims 21-22 And 38-39 Are Not Properly Rejected Under 35 U.S.C. 103(A) As Being Unpatentable Over Walker et al. In View Of Raven et al. And Orus et al. Further In View Of Phillips Semi-Conductors**

**1. Claims 21-22**

Claims 21-22 are dependent from independent claim 31, which has been previously discussed. As such, they share in the patentable distinctions of the claim 31 from which they depend.

**2. Claims 38-39**

Claims 38-39 are dependent from independent claim 32 which has been previously discussed. As such, they share in the patentable distinctions of the claim 32 from which they depend.

**VIII. CONCLUSION**

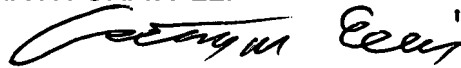
The present invention concerns a novel method of activating a game machine by a player, which method solves certain significant problems that have plagued the gaming machine industry. By using the present method, a player will not accidentally leave his or her card or in a reading slot, plus separate biometric information is required in order to proceed. Whether taken singly or in combination with each other, the prior

art references do not teach the invention as claimed. The Examiner's rejections are based on improper hindsight and it is submitted that the claims are allowable over the prior art of record.

In view of the foregoing, reversal of the Examiner's rejections is warranted and is requested.

Respectfully submitted,

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Registered Attorney for Applicant

Date: Sept 24, 2007

### **Appendix: Claims on Appeal**

3. The method of claim 31 in which the player also physically actuates the gaming machine as a separate, added step to activate the machine.
4. The method of claim 31 in which the player also provides a separate, personal identification to the gaming machine in the form of letters or numbers as a necessary prerequisite to said machine activation.
6. The method of claim 31 in which, after evaluation of said data, the gaming machine is activated in a specific mode selected from a plurality of possible modes of activation, the specific mode selected being a function of the individualized data.
7. The method of claim 6 in which the specific mode selected comprises a particular game or choice of games to be played.
8. The method of claim 6 in which the specific mode selected comprises a special offer of a benefit or activity for the player.
19. The method of claim 31 in which said individualized data are transferred by a radio or microwave frequency signal from the card to the gaming machine or said computer network.
20. The method of claim 31 in which the card includes readable indicia and said indicia are electronic indicia stored in a memory of a microprocessor carried in the card.
21. The method of claim 31 in which the card is carried by the player in the form of an article of personal adornment or clothing.
22. The method of claim 21 in which the card is carried by the player in the form of a wristwatch.

26. The method of claim 31 in which said card carries a microprocessor, said microprocessor providing a plurality of separate accounts to the user.

31. The method of activating a gaming machine by an individual player for subsequent play, which comprises:

displaying to said gaming machine, without physical contact with said gaming machine, a card carried by the player;

said card comprising suitable electronics for data transmission;

causing wireless transfer of first individualized data concerning the player from the card to the gaming machine or to a computer network that is associated with said gaming machine;

evaluating said data against a stored database;

upon favorable evaluation of said data, said gaming machine providing a personalized greeting to the player;

providing biometric sensing as separate, personal identification to the gaming machine;

evaluating said biometric sensing;

activating said gaming machine for said subsequent play upon favorable evaluation of said data and said sensing;

during or after said subsequent play, causing wireless transfer of second, individualized data back to the card to be stored.

32. The method of activating a gaming machine by an individual player for subsequent play, which comprises:

said individual player manually actuating said gaming machine to accept non-contact electronic data transmission from a card carried by the player;

displaying to said gaming machine, without physical contact with said gaming machine, said card carried by the player;

said card comprising suitable electronics for data transmission;

causing wireless transfer of first individualized data concerning the player from the card to the gaming machine or to a computer network that is associated with said gaming machine;

evaluating said data against a stored database;

upon favorable evaluation of said data, said gaming machine providing a personalized greeting to the player;

providing biometric sensing as separate, personal identification to the gaming machine;

evaluating said biometric sensing;

activating said gaming machine for said subsequent play upon favorable evaluation of said data and said sensing;

during or after said subsequent play, causing wireless transfer of second, individualized data back to the card to be stored.

33. The method of claim 32 in which, after evaluation of said data, the gaming machine is activated in a specific mode selected from a plurality of possible modes of activation, the specific mode selected being a function of the individualized data.

34. The method of claim 33 in which the specific mode selected comprises a particular game or choice of games to be played.

35. The method of claim 33 in which the specific mode selected comprises a special offer of a benefit or activity for the player.

36. The method of claim 32 in which said individualized data are transferred by a radio or microwave frequency signal from the card to the gaming machine or said computer network.

37. The method of claim 32 in which the card includes readable indicia and said indicia are electronic indicia stored in a memory of a microprocessor carried in the card.

38. The method of claim 32 in which the card is carried by the player in the form of an article of personal adornment or clothing.

39. The method of claim 38 in which the card is carried by the player in the form of a wristwatch.

40. The method of claim 32 in which said card carries a microprocessor, said microprocessor providing a plurality of separate accounts to the user.

41. The method of claim 32 in which said individual player manually actuates the gaming machine by pressing a button.

42. The method of claim 3 in which said player physically actuates said gaming machine by pressing a button.

**EVIDENCE APPENDIX**

None.

**RELATED PROCEEDINGS APPENDIX**

None.